

# ELECTIONS DIVISION



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## BEST PRACTICES GUIDE TO EXECUTIVE COMMITTEES

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## USING THIS GUIDE

### ***The Information***

This guide is designed to serve as a reference for members of political party executive committees and the officials who work with committees in matters relating to elections. *It does not focus on information about party functions or organization, because those are based mostly on party rules and are internal party matters.* To get answers to those questions, contact your state party headquarters.

### ***The References***

Election matters are mostly governed by the West Virginia Code, the Code of State Rules, and in some cases by federal law or rulings in court cases which interpret the law. As procedures, requirements and timelines are described in this guide, the sources are:

Source	Example
W. V. State Code, Chapter, Article and Section	§3-1-9
West Virginia Constitution, Article and Section	Const., Art. 4, §1
Code of State Rules	CSR 153-14-3
Decision of the West Virginia Supreme Court of Appeals	<u>State ex rel. Zagula v. Grossi</u> , 149 W.Va. 11 (1964)
Opinions of the Attorney General	Op. Att'y Gen., Feb. 19, 1976
Forms Prescribed by the Secretary of State	Form E-3

Every subject, issue or problem may not be covered. If you have questions or suggestions about how to improve this reference and make it more useful to you, please contact the Secretary of State's Office at 1-866-767-8683.

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## PARTY EXECUTIVE COMMITTEES

### *The Committees and Membership*

Voters registered with a political party, elect members to party executive committees in the statewide primary election in non-presidential years. The State Executive Committees also have some appointed members who are named according to party bylaws after new committee members are elected and organized.

Members are elected to four-year terms that begin on July 1 after the primary election. Upon completion of the canvass, the County Clerk sends the results of the election of members of each executive committee to the Secretary of State. Once the results are certified, the Secretary of State lets each state executive committee know who was elected and any vacancies that exist. The state executive committee tells the county committees about the vacancies so the local committees can work to fill the vacancies. Vacancies in any executive committee have to be filled by the appropriate executive committee within sixty days of the vacancy. There are no elections to fill unexpired terms on the committees. If a vacancy on the executive committee is not filled within the sixty-day period, the chair of the appropriate executive committee names someone to fill the vacancy. If the chair of a county executive committee fails to fill a vacancy in an executive committee, and the failure to fill the vacancy prohibits the committee from conducting official business, the chair of the party's state executive committee has to fill the vacancy.

A current list of members on each committee must be filed with the Secretary of State's Office by the end of July of each year. If there is a change in membership, the chair of the executive committee must send an updated list to the Secretary of State within ten days of the change. This list must include the member's name, full address, employer, telephone number and term of office. An appointment to fill a vacancy does not take effect if the executive committee does not submit the updated list to the Secretary of State within the 10 days. If the executive committee fails to submit the updated list, it must make another appointment and resubmit the updated list in a timely manner. (W. V. Code §3-1-9)

The only qualifications for membership are eligibility to register to vote and residence in the district or county from which the member is elected. However, the courts have not always held a strict standard for residence of executive committee members. In other words, members are not necessarily immediately disqualified if they move out of their district. It may be up to the party to decide whether the member can continue to serve. The political party may require committee members to be registered to vote as members of the political party, but this requirement is not spelled out in the law. (State ex rel. Goodwin v. County Court, 147 W. V. 62 (1962))

The law establishes executive committees on different levels: county, district and state. Some cities also have executive committees which function for city elections as county executive committees do for county elections. The committees and membership include:

**State Executive Committee:** Two men and two women elected from each senatorial district (totaling 68 members), plus appointed members. Not more than 2 of the 4 elected (2 men and 2 women) can be from the same county.

**Congressional District Executive Committee:** One man and one woman elected from each county in the district.

**Senatorial District Executive Committee:** One man and one woman elected from each county in multi-county senatorial districts. For single county senatorial districts, the county executive committee serves as the Senatorial Executive Committee.

**Delegate District Executive Committee:** One man and one woman elected from each county in multi-county delegate districts. For single county delegate districts, the county executive committee serves as the Delegate District Executive Committee.

**County Executive Committee:** An equal number of men and women are elected from each magisterial district or from each executive committee district if these have been established. Two men and two women are elected from each district if there are only three districts. For counties with more than three districts, one man and one woman from each district are elected.

### ***Filing for Executive Committee--Non-Presidential Years***

Candidates file for all executive committees on the same schedule and using the same procedures as candidates for other offices. Filing begins on the second Monday of January and ends the last Saturday in January (except in municipalities which have charters designating otherwise).

Filing fees and locations are:

<b><u>Committee:</u></b>	<b><u>File with:</u></b>	<b><u>Fee:</u></b>
State	Secretary of State (except Sen. Dist. 8 & 17 file with County Clerk)	\$20.00
Congressional District	County Clerk	\$ 5.00
Senatorial District	County Clerk	\$ 5.00
Delegate District	County Clerk	\$ 5.00
County	County Clerk	\$10.00
Municipal	City Clerk or Recorder (W. V. Code §3-5-8)	(Set by ordinance)

When filing, committee candidates complete a "Certificate of Announcement" (Form C-1) which includes a statement that the candidate "has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing." If a candidate has switched parties within that time, the candidate can be removed from the ballot by a special procedure. However, if the candidate was just not registered to vote at all during that period, it is permissible to register and then file for office.

Vacancies on the executive committee ballot cannot be filled by appointment, but vacancies on the committee can be filled after the new terms begin. All district committee vacancies are filled by the county executive committee of the county where the vacancy exists.

After the filing period, it is still possible to seek election by becoming a write-in candidate. Write-in candidates are required to file a "Write-in Candidate Certificate of Announcement" (Form C-7) in order to have the write-in votes counted. The deadline for filing as a write-in candidate is the 42nd day before the election. (W. V. Code §3-6-4a)

## **FILLING VACANCIES -- Offices & Ballots**

Some authority and responsibilities of the executive committees are set in law, especially when those functions relate to state elections. Other roles are a function of party rules and will not be covered in this guide.

### ***Nominating Persons to Fill Vacancies in Office***

When a vacancy occurs in an office, an executive committee may have a role in helping to name the person who will serve until an election. (These provisions relate only to filling the vacancy in the office. See page 5 for provisions on filling ballot vacancies.)

**U. S. House of Representatives** -- A vacancy in the U. S. House may only be filled by election - a requirement of the U. S. Constitution. The *Congressional District Executive Committee* calls and conducts a district convention to choose a nominee for the ballot for a special election. Procedures for choosing delegates to the district convention are spelled out in West Virginia law. (U.S. Const., Art. 1, Section 2) (W. V. Code §3-10-4)

**State Senate** -- When a vacancy occurs in the State Senate, the *State Senatorial District Committee* in multi-county senatorial districts and the *County Executive Committee* in single county senatorial districts (Kanawha County only) have the right to meet to choose three persons as nominees to fill the vacancy. However, the committee must make the selection and certify the three names to the Governor within 15 days after the vacancy occurs. Once the Governor receives the names he/she has 5 days to make the appointment. If a list is not submitted to the Governor within 15 days, the governor appoints a legally qualified person within five days. The vacancy must be filled by a person of the same political party and must be from the same county and senatorial district as the person vacating office. (W. V. Code §3-10-5)

**House of Delegates** -- A vacancy in the House of Delegates is governed by the same provisions as for State Senate (above). In this case, the *Delegate District Executive Committee* in multi-county delegate districts and the *County Executive Committee* in single-county delegate districts have the authority to meet to choose three persons as nominees. The vacancy must be filled by a person of the same political party and must be from the same county and delegate district as the person vacating office. (W. V. Code §3-10-5)

**County Offices** -- An executive committee has no legal authority to name persons to fill a vacancy, but the appointing body (county commission or circuit court) may sometimes seek recommendations from the committee. (W. V. Code §§3-10-6, 3-10-7, 3-10-8)

Office	Filled by
U. S. Senator	Governor
Member of Congress	Special Election
Governor	Temporary succession of Senate President
State Senator	Governor
House of Delegates	Governor
Judge	Governor
Supreme Court Justice	Governor
Magistrate	Chief Judge, Circuit Court
Circuit Clerk	Chief Judge, Circuit Court
Other county elected officials	County Commission

### ***Filling Vacancies on the Ballot***

Executive committees have a role in filling ballot vacancies, but that role depends upon the circumstances or timing of the vacancy. The committee for the political subdivision which the office represents (state, district or county) has the responsibility to call a meeting and complete the process. If the committee fails to act, the ballot will remain vacant and the party will lose its chance to have a nominee on the ballot. W. V. Code states that public notice must be given for any meeting of political party executive committees.

### ***Vacancies on the Primary Election Ballot (does not apply to candidates for executive committees.)***

There are several reasons for vacancies on the primary election ballot:

\* Failure to file -- When no one files for an office during the regular filing period, or in multi-candidate offices, when fewer people file than there are seats to fill.

(W. V. Code §§3-5-11(c), 3-5-19(3))

\* Disqualification -- When a candidate in the primary is disqualified by a court and ordered to be removed from the ballot. The judge may provide for an appointment in such cases.

(W. V. Code §3-5-19(4))

In these cases, the appropriate executive committee has authority to name a candidate to fill the vacancy. The committee has two choices:

-- The committee may name a candidate to be placed on the primary election ballot, which will give the party's candidate more exposure to the voters; or

-- The committee may name a party nominee to be placed on the general election ballot, under the proper circumstances.

For an appointment to be valid, the appropriate executive committee must meet, choose a candidate, and certify that nomination to the proper office by the deadline, along with the candidate's certificate of announcement and the filing fee.

If the committee meets to nominate a candidate but cannot get a quorum, cannot agree on a candidate, or simply fails to file the nomination on time, the committee chair then has authority to fill the vacancy on the ballot. The committee chair is cannot simply bypass the committee and make a nomination.

### ***Appointment Deadlines***

Deadlines for appointments must be met in order for the name to go on the ballot. If a vacancy on the primary ballot is not filled by the deadline, the party will not be able to have a nominee in the general election.

To fill the primary election ballot -- The committee must file its Certification of Appointment (Forms C-3, C-4) no later than the second Friday following the close of candidate filing. The deadline for the committee chair is the third Tuesday following the close of candidate filing. (W. V. Code §3-5-11(c))

To fill the general election ballot -- The committee must file its Certification of Appointment (Forms C-5, C-6) no later than 30 days after the close of the candidate filing. The deadline for the committee chair is 32 days after the close of the candidate filing. (W. V. Code §3-5-19(a) (2))

### ***Other Vacancies on the General Election Ballot***

The law provides procedures to fill ballot vacancies which occur in offices where no vacancy existed in the primary election. If the primary nominee cannot run in the general election, or if a vacancy occurs in an office which would not have been on the ballot that year, the following requirements apply:

In case of disqualification or incapacity of the nominee at least 84 days before the general election: A candidate may be determined ineligible if a written request is made by an individual with information to show a candidate's ineligibility to the State Election Commission no later than 84 days before the general election. The executive committee may appoint and certify the nominee no later than 78 days before the election (for appointment by chair, 76 days before the election). (W. V. Code §3-5-19(a) (4) & (5))

In case of extenuating personal circumstances which would prevent the nominee from serving if elected: The candidate or appropriate executive committee chair may apply in writing to the State Election Commission for permission to withdraw and fill the vacancy no later than 84 days before the general election. If the Commission finds the circumstances warrant the withdrawal, the executive committee may appoint and certify the nominee no later than 78 days before the election (for appointment by chair, 76 days before the election). (W. V. Code §3-5-19(a) (6))

In case of the death of the candidate on the general election ballot occurring no later than 25 days before the general election: The executive committee may appoint and certify a nominee no later than 21 days after the death of the candidate, or no later than 22 days before the general election, whichever is earlier. (W. V. Code §3-5-19(a) (7))

In case of a vacancy in an office not on the ballot which occurs after candidate filing and no later than 84 days before the general election: Except in certain state and judicial offices, the executive committees of both parties may appoint and certify a nominee no later than 78 days before the general election (for appointment by chair 76 days before the election). (W. V. Code §3-5-19(7) (b))

### ***Special Provisions for Certain Offices***

Some offices are subject to special provisions which will not be detailed here. However, here is a summary of offices which are not always subject to the appointment procedures described above:

U.S. Senate, Governor, Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, Judge of the Supreme Court of Appeals: When these positions are up for election and one of the types of vacancies in nomination occurs as described above, the State Executive Committee could fill the vacancy on the ballot for the primary or general election. However, vacancies creating an unexpired term would be subject to special provisions. (W. V. Code §3-10-3) (W. V. Const., Art. 4, §7 and Art. 8, §7)

U.S. House of Representatives: When a vacancy in nomination occurs as described above, the Congressional District Executive Committee could fill the vacancy on the ballot for the primary or general election. However, when a vacancy in office occurs, a convention must be called to nominate candidates to fill the position, and a special election must be held if at least six months remain in the term. (W. V. Code §3-10-4)

Circuit & Family Court Judge: If no candidate files for a position which is up for election, the ballot remains empty. If a vacancy occurs in an office after the end of candidate filing, the office will not be filled by election until the next election year. The governor is responsible for making an appointment to fill the unexpired term until an election is held. There is no provision for an executive committee to make nominations or appointments for circuit judges or for family court judges. (W. V. Code §3-10-3)

### ***Suggested Checklist for Filing Vacancies***

Before the vacancy occurs:

- Make sure any vacancies from your county on the executive committees above the county level are filled by one man and one woman from your county.

When the vacancy occurs:

- Announce through the media how persons interested in filling the spot should apply.
- Obtain a correct list of the members of the executive committee.
- Determine how a special meeting can be called
- Make sure the date, time and place of the special meeting are made known to the public.



During the meeting:

- A quorum must be present
- The committee may adopt any fair way to determine the final list of 3 persons to be submitted to the Governor.
- No secret ballot voting is allowed.

After the meeting:

- Sent a written report to the Governor. The report should include the names, addresses and telephone numbers of the three persons selected. The report should be signed and also include the time, date, and place of the meeting.
- Make sure the report is received by the Governor within the time limits prescribed in the Code.

### **NOMINATING POLL WORKERS**

One of the most important roles of county executive committees is the nomination of election officials for Election Day. Without conscientious, honest and competent people to work at the polls, Election Day can become disorganized and subject to fraud.

Committees should take care and pride in the selection of election officials. They will leave a strong impression with voters about the party's commitment to clean and efficient elections.

#### ***Ballot Commissioners***

In each county, the county clerk and one person from each of the two political parties that casts the largest and second largest number of votes in the state at the last preceding general election constitutes the Board of Ballot Commissioners. This appointment is made every two years by the county clerk from nominations from the party. The board of ballot commissioners certifies the ballots for the primary and general elections, proofs the ballots, and attends the test of electronic voting equipment where it is used.

Between January 15 and January 30 of each election year, the county clerk of each county will appoint one ballot commissioner from each party to serve a two-year term. At least five days before that appointment can be made, the clerk is required to give notice to the county executive committee chairs. The chairpersons have authority to nominate a ballot commissioner. However, if no nominations are submitted by the deadline, the county clerk then has authority to fill the position. (W. V. Code §3-1-19)

Ballot commissioners must be qualified voters, but it is important to choose someone who is able to perform the duties well, work well with the commissioner of the opposite party, and who will be available when needed -- especially at ballot certification time. Try not to choose people who travel a lot or whose schedules are so busy that they aren't available when needed. This creates problems for voters and for the election process. Also, don't choose a potential candidate, which will raise questions about his or her impartiality.

Ballot commissioners are paid by the day of actual service -- up to a maximum of \$125 per day plus mileage. The actual amount that a ballot commissioner is paid is determined by the county commission. (W. V. Code §3-1-44)

### ***Emergency Absentee Voting Commissioners (EAVCs)***

Special commissioners are needed to provide emergency absentee voting services during the last few days before the election. These commissioners (EAVCs) are two persons with different political party affiliations. The clerk determines how many teams are needed to provide adequate services for the county, and notifies county executive committee chairs of how many people to nominate. (W. V. Code §3-3-5c)

To conduct emergency absentee voting, a team of commissioners takes an application and ballot, upon request, to a voter who is in the hospital or health care facility on Election Day. This service is designed to prevent voters from being disenfranchised because of accidents or other medical emergencies which might occur too late to allow them to vote an absentee ballot by mail or during early voting in person. The service is not available to family members of the confined voter.

Some county commissions have adopted a policy extending these services to hospitals outside the county, but within 35 miles of the county seat, or to nursing homes within the county. Teams may be sent to conduct voting at these other locations. Nursing home patients are eligible to vote an absentee ballot by mail. An emergency absentee ballot may only be delivered to a resident in a nursing home if the policy has been extended and only if that voter has been a resident of the nursing home for less than 30 days. **NOTE: Emergency absentee voting policy must be adopted and filed with Secretary of State at least 90 days before the election.** (W. V. Code §3-3-5a)

The request for an emergency absentee ballot must be made no earlier than the seventh day before the election and no later than noon on Election Day. At least one team must be available that day. All commissioners nominated should be available throughout the day, able and available to drive to the designated locations, and able to handle the voting process. (W. V. Code §3-3-5c (d))

Eligibility requirements for EAVCs are the same as those for election commissioners at the polls. (See page 8). They may be paid only on a per day basis -- not per trip -- and the team's driver will be reimbursed for mileage. The county executive committee must nominate the EAVCs by the same deadline as for other election officials. (See page 9)

### ***Election Commissioners, Poll Clerks and Alternates (also called Poll Workers)***

In each county, the county executive committee for each of the two major political parties may file nominations for poll clerks, election commissioners and alternates to the county commission. The county commission is responsible for appointing persons to these positions. This is one of the most important roles the executive committee has in the election cycle.

## **Qualifications -- Who Can Serve?**

To be eligible to be appointed as an election official at the polls on Election Day, **a person must be:**

- *eligible to vote at the election (17-year olds who will be 18 by the general election may work in a primary election);*
- *a resident of the county, or of the municipality for municipal elections (exceptions may apply in certain situations --- see W. V. Code §§3-1-28 & 3-1-29);*
- *able to read and write English;*

(W. V. Code §3-1-28)

**but the person cannot be:**

- *a candidate on the ballot or an official write-in candidate in the precinct, or the parent, child, sibling or spouse of the candidate (if a candidate is on the ballot in only part of the precincts in the county, relatives could still work in other precincts outside that district);*
- *subject to prohibitions against serving as an election official because of employment or other official position, such as:*
  - *an employee of the judicial system, including magistrate, magistrate clerk and other positions covered by the Code of Judicial Conduct;*
  - *a city fireman and policeman covered by municipal civil service;*
- *someone who has been suspended from eligibility as an election official by the county commission for the period of the suspension;*
- *someone who has been previously convicted of a violation of any election laws.*  
(W. V. Code §§3-1-28, 8-14-19, 8-15-24, 29-6-20 and 50-1-12)  
(Code of Judicial Conduct, Canon 5)

## **When and How Are Poll Workers Nominated?**

Twelve weeks (84 days) before the election the county commission is required to notify the county executive committee for each of the two major political parties of the number of election commissioners, poll clerks and alternates the committee needs to nominate.

In the next two weeks, the county executive committee must get the list of nominees together, hold a meeting to approve the list, and file the list of nominees with the county commission no later than ten weeks (70 days) before the election. Executive committees need to make sure that the list is current and that the people on the list are willing to serve.

The county clerk verifies the eligibility of each nominee. Do not just forward a copy of the previous list to the county clerk. Each recommendation should be verified before each election to remove those that will not be available for a particular election.

The county commission has a week to meet to make the appointments, which must be acted on no later than seven weeks (49 days) before the election.

The county clerk mails a notice to the persons appointed within seven days after the appointments are made. Workers must answer the notice within fourteen days after or they forfeit their right to the position. They can answer by returning a card or by phone.

If an appointed worker fails to respond or declines to work on Election Day, the vacancy will be filled by alternates until all alternates are used up (see page 12). After that, the county clerk has the authority to fill vacancies.

Poll workers must attend election training no later than seven days before the election. Election officials who were appointed and agreed to serve but do not attend training must also be replaced. Having attended training in the past is not enough. The County Clerk will notify the poll worker of the time and place for elections training. (W. V. Code §§3-1-30 and 3-1-46)

### **How Many Poll Workers are Needed?**

Each polling place has a **receiving board**, which consists of 2 poll clerks and 3 election commissioners. The additional election commissioner is chosen by the County Commission at the Commission's discretion. Municipal elections use 4 members on the receiving board (2 poll clerks and 2 elections commissioners). In counties using paper ballots which must be counted by hand, some precincts have **counting boards** in primary and general elections.

#### **For Municipal Elections:**

In all precincts - Four-member Receiving Board (one team of election commissioners and one team of poll clerks) unless otherwise stated in charter or ordinance

#### **For Non-Presidential Elections and Special Elections in the county**

In all precincts - Five-member Receiving Board (one team of election commissioners and one team of poll clerks plus one additional commissioner selected by County Commission)

#### **For Presidential Election Years: (Statewide Elections)**

In precincts less than 500 voters - Five-member Receiving Board (one team of election commissioners and one team of poll clerks plus one additional commissioner selected by County Commission)

In precincts larger than 500 voters (at option of County Commission) - Seven-member Receiving Board (one team of election commissioners and two teams of poll clerks plus one additional commissioner selected by County Commission)

**Counting boards** for counties using paper ballots are made up the same way as a five-member receiving boards. The county commission will decide which precincts will have county boards according to the following rules:

Precincts under 200 voters --	Not allowed
Precincts of 200-400 voters --	Optional
Precincts over 400 voters --	Required

The county executive committee may nominate one person for each team of commissioners or clerks -- one clerk and one commissioner for each five-member board, and two clerks and one commissioner for each seven-member board (presidential elections only).

In some counties, the commission may ask one or both of the committees to nominate some of the "third" commissioners. The law is not specific to the political party affiliation of the "third" commissioner. The law does not specify how the county commission determines the party chosen for this position.

In a municipal primary or general election, one counting board may be allowed, at the discretion of the municipal governing body, for any precinct of more than two hundred registered voters.

(W. V. Code §3-1-29)

### **What about alternates?**

In addition to the total number of nominees to serve as poll workers, executive committees nominate at least 10% more people to be alternates. You cannot nominate more alternates than the number of precincts. For example, if the committee was required to nominate a total of 100 poll workers (2 in each precinct), they would also have to nominate at least 10 alternates. Because 100 poll workers means 50 precincts, the executive committee needs to nominate between 10 and 50 alternates to comply with the law. Choosing as many alternates as possible is VERY important to success on Election Day. It is very difficult to find a substitute before dawn on Election Day, but with a good list of alternates ready to serve, the vacancies can be filled and the polls opened on time.

Alternates named by the committees will have priority in filling vacancies. They will be notified of their appointment as alternates and, if they agree to serve and be ready to work on Election Day, some may be asked to attend the training session. The county will pay alternates who attend training, providing they do go to the training program and are available and ready to work if called on Election Day. In other words, a person can't just attend training and then refuse to work Election Day and still be paid for attending the training.

The county commission may also appoint additional alternates. However, if the committee and commission do not name enough alternates to fill all the vacancies, the authority then shifts to the county clerk to fill any remaining slots.

(W. V. Code §3-1-30)

### **Finding Good Poll Workers -- Don't Just Use the Old List!**

Unfortunately, some committees take the list from the last election and turn it in, without checking to see if the previous election workers are available, willing to work, and still able to do the job. Split up the work among your members and call people you think might want to work before you nominate them. Make sure they want to work Election Day and will be able to attend training. If not, find someone else.

Think about whether the people you are considering can do the job. Being a poll clerk requires a person who is alert, organized, careful and friendly. All election officials should be able to deal with problems calmly and firmly, be good at meeting people, work well in a team, be willing to accept new procedures, and be able to manage the long day. Little things can be important. For example, smoking is not permitted in most polling places, and election officials cannot leave during the day to take smoke breaks.

Also, someone you choose should be willing to serve as supply commissioner or return commissioner. (See page 13)

Do you have trouble finding people? Contact local civic clubs, colleges or high schools, churches and community groups and let them know you're looking for workers. You may be surprised at the people who are willing to work but have never been asked!

### **Making the Appointments -- A Meeting is Essential**

The county executive committee must call a meeting and approve the list of nominees by majority vote. Your whole list of nominees could be challenged if it is not approved at a meeting of the committee with a quorum present. It is not enough to collect names from the various committee members and send them in.

As soon as the nominees are approved, take the list to the county clerk. Even before the county commission makes the final appointments, the clerk will begin preparing the notices and checking eligibility. Time is crucial in an election schedule packed with deadlines.

### **The County Commission's Role**

Once the executive committee makes its nominations, the county commission must appoint all eligible nominees for available positions as poll clerks, election commissioners or alternates. The commission will reject ineligible people.

The commission may select the additional commissioner for each precinct, and additional alternates, who may be used after the executive committee list of alternates is exhausted.

The county commission sets the pay rate of election officials, which the law limits to the following maximum rates:

- \$175 for Election Day

- \$125 for training

- \$125 for supply commissioner

  - plus mileage up to the rate authorized by the WV Department of Administration

- \$125 for return commissioner

  - (two poll workers of opposite political parties return ballots & supplies together, the driver receives mileage)

(W. V. Code §3-1-44)

## **The County Clerk's Role**

The clerk of the county commission verifies the qualifications of the nominees on the list submitted to the county commission. Then, upon appointment, the clerk must notify officials who are appointed, conduct the training, and fill poll worker vacancies. The clerk also has authority to exchange duties (making a poll clerk a commissioner and vice versa) or to remove an official on Election Day if the person is unable to do the job or violates the laws relating to Election Day procedures.

The county clerk chooses one of the election officials (from the receiving board - not the counting board) as supply commissioner. The supply commissioner comes to the courthouse and picks up the ballot boxes, voter registration books and other supplies before the election. The same supply commissioner must also return the ballots on election night after all procedures are complete.

(W. V. Code §3-1-24)

Also chosen is a return commissioner (from the receiving board - not the counting board) of an opposite political party. The return commissioner accompanies the supply commissioner on election night to return the ballots. The two people and the ballots must come in the same car! The return commissioner is required for all voting systems, and may be either a poll clerk or commissioner from that precinct (but not someone outside the election board). As you can see, it is vital that someone you nominate is willing to do one of these two jobs.

(W. V. Code §§3-5-16, 3-6-8 and 3-4A-19(8))

## **What Happens After the Election?**

It would be helpful to find out if there were any problems at the polling place with facilities or supplies, procedures or relations among the workers. Such a practice will help avoid problems in future elections and help keep good workers.

It is also important to talk to the county clerk to see if there were any problems with any of your party's poll workers. Workers who are not able to do the job efficiently or able to deal with voters or their fellow workers should not be nominated again. The eligibility of these workers to serve in future elections may also be suspended by the county commission if there is evidence that they did not perform their duties properly.

## **CAMPAIGN FINANCE FOR EXECUTIVE COMMITTEES**

### **Basic Principles**

This guide will not cover all the rules of campaign finance, but will focus on some basics and some common problem areas. Each committee treasurer should study the campaign finance laws, rules and reporting forms in detail. But all executive committee members should understand the basics of campaign finance so they don't inadvertently break the law when

trying to carry out the committee's decisions about election activity. Here are some important points:

### **If you raise money, you must file financial reports**

All political party committees who raise funds are required by state law to keep records and file reports of financial activity. First, each committee must file a statement of organization of the political committee and designate a treasurer. Once that has been done, it remains established as an official committee and the treasurer must file financial reports on a regular schedule set out by law.

Every time the committee changes treasurers, a "Change of Treasurer" form must be filed to transfer the authority and responsibility to the new person. Unless this form is filled out and submitted to the proper filing officer, the old treasurer is still responsible for financial reporting and may be held liable for any reports that are not filed or are filed incorrectly.

(Form F-4 and F-5)

(W. V. Code §§3-8-4 and 3-8-5)

### **Where does your committee file?**

Each committee files in only one office -- the Secretary of State, the county clerk or the city clerk. Your expenditures will determine where you file, but most committees need to file with the Secretary of State.

(W. V. Code §3-8-5b)

*---If you spend money on any candidate in a district larger than the county, you file with the Secretary of State.*

It is best to think ahead in deciding where to establish your committee. If you usually focus on county races, but want to support statewide or multi-county candidates, you should file reports with the Secretary of State. (Remember: if you wish to support any legislative candidates, you must file with the Secretary of State.)

*--If you spend money only on non-legislative candidates in a single county, you must file with the county clerk, or for a city, with the city recorder.*

A few county executive committees support only county candidates, never making a contribution or hiring workers for statewide candidates, congressional candidates or legislative candidates. If that is the case for your county executive committee, your treasurer files with the county clerk. Municipal executive committees file with the city recorder.

### **All funds must pass through the hands of the treasurer.**

The treasurer you choose is fully responsible for handling the income and expenditures and for filing the reports. You can have two people sign checks, if you prefer, but the



treasurer must be one of them. People other than the treasurer should not be receiving contributions and writing checks.

(W. V. Code §3-8-3)

**Except for certain kinds of fundraisers, every contribution must be reported by the name of the contributor.**

Political party executive committees can report income received through the sale of food or other items at fundraisers in a special way, provided that the amount received from any one purchaser was no more than \$50 and the total profits from these fundraisers did not exceed \$5,000 a year. For these sales only, the contributor's names are not required, but the total amount received, the amount spent on products for sale, and the profit must be reported.

Every other contribution, regardless of amount, must be reported in the regular way. Passing the hat or keeping an unattended contribution jar at a party event is not legal. Anonymous contributions are illegal and when they are received and cannot be returned they must be turned over to the state general fund by sending a check for the amount of the contribution to the Secretary of State with an explanation.

The basic rules of contributions are:

- Maximum contributions from one person or committee are \$1,000 for a primary election and \$1,000 for a general election.
- Contributions may be accepted from individuals, businesses which are sole proprietorships or partnerships, or from other political committees, including candidates' committees. Contributions cannot be accepted from corporations.
- Things of value which are given for the committee's use are subject to the same rules as cash. These are in-kind contributions. Mailing lists, paper, printing or copying, use of phone banks, materials for signs, food or other items for sales are things of value which must be reported.
- Contributions more than \$50 must be made by personal check, money order, credit card or electronic transfer.
- Contributions totaling \$250 or more must be reported with the name, address, business affiliation and occupation of the contributor. It is important to plan for this in designing your ads and contributor forms when planning a big fundraiser. It will be easier to do reports if you have this information up front and don't have to search for it.

**Raffles are under the authority of the Tax Department; you may be required to file for a license.**

Raffles and drawings are fun ways to raise money but, since they are a form of gambling, they are regulated by the Tax Department (304-558-8510). You must get a license before you start.

## **Expenditures can be made only for purposes allowed by law.**

West Virginia law lists the purposes for which expenditures can be made, and anything not reasonably within those categories is not legal.

(W. V. Code §3-8-9)

“Independent expenditure means an expenditure made by a person other than a candidate or candidate's committee in support of or opposition to the nomination or election of one or more clearly identified candidates and without consultation or coordination with or at the request or suggestion of the candidate whose nomination or election the expenditure supports or opposes or the candidate's agent. Supporting or opposing the election of a clearly identified candidate includes supporting or opposing the candidates of a political party. An expenditure which does not meet the criteria for an independent expenditure is considered a contribution.”

(W. V. Code §3-8-1 a (14))

## **Rules for hiring temporary election workers limit work time and pay for each election.**

- A county executive committee may hire workers for an election, but the number of worker-days (one worker for one day) may not exceed the number of precincts in the county. For example, for 20 precincts, ten people could be hired for two days each. These people may work on Election Day or before, and in any area.
- Paid workers may be paid no more than \$9 per hour up to a maximum of \$75 per day.
- Each worker must complete and sign a form (including social security number) listing the work done before receiving pay, and must be paid by check.

## **Volunteer expense reimbursement is limited.**

Volunteers currently may be reimbursed for actual expenses up to \$15 per day, but must report those expenses if the total exceeds \$50 for an election.

Regular campaign staff must work a regular schedule.

It is legal to hire regular employees, but to be classified as regular campaign staff, a person must work "in excess of twenty hours per week on a regular and continuing basis," and must be paid a "regular salary out of which is deducted withholding tax and social security obligations."

## **Filing Reports**

Once a committee is established, campaign finance reports must be filed on a regular basis set by law. Failure to file or willfully filing a grossly incomplete or inaccurate statement is a crime, and both the Secretary of State and the county clerks are required to report violators to the prosecuting attorney of the county where the treasurer lives.

Campaign finance reports must be filed during each filing period, regardless of the committee's financial activity. This means that even if a committee has not received any

contributions or made any expenditures during a reporting period, the report must be filed, even if it means showing "zero" activity in each category.

#### **Filing deadline for non-election year:**

Annual report due on the last Saturday of March or within 6 days thereafter.

- An annual report listing all contributions and expenditures since the last report.
- A waiver may be filed if the total financial activity (the sum of contributions received and expenditures made) is less than \$500.

(W. V. Code §3-8-5)

#### **Filing deadline for election year:**

The first primary, pre-primary, post-primary, first general, pre-general, and post-general.

For the first primary report and the first general report (with no outstanding loans), a waiver may be filed if the total financial activity (the sum of contributions received and expenditures made) is less than \$500.

- The annual report (first primary) is due beginning the last Saturday of March or within 6 days thereafter.
- The first general report is due beginning the 43<sup>rd</sup> day before the General Election and due within 4 business days thereafter.
- The pre-primary and pre-general reports are due beginning the 15<sup>th</sup> day before the Primary or General and within 4 business days.
- The post-primary and post-general reports are due beginning the 13<sup>th</sup> day and within 20 business days after the election.

#### **AVAILABLE FORMS**

The following forms are available from your county clerk or the Secretary of State.

C-1:	Candidate's Certificate of Announcement
C-3, C-4:	Certification of Appointment for Primary Ballot
C-5, C-6:	Appointment for General Election Ballot
C-7:	Write-In Candidate's Certificate of Announcement
C-8:	Nomination by Party
C-9:	Withdrawal Form
E-1, E-2, E-3:	Appointment to District Executive Committee
E-5:	Certificate of Tie Break by Executive Committee
F-1:	Statement of Pre-candidacy
F-2:	Online CFRS Authorization
F-3:	Candidate Treasurer Designation
F-4:	Statement of Organization of Political Committee
F-5:	Notice of Change of Treasurer
F-6:	Notice of Dissolution of Committee
F-7:	Campaign Finance Report
F-7A:	Campaign Finance Report-Short Form

F-8:	Report of Payment of Campaign Staff
F-9:	Election Campaign Worker's Report
F-10:	Advertising or Disbursing Agent
F-11:	Volunteer's Report of Expenses Reimbursed
F-12:	Waiver for Annual Campaign Finance Report
F-13:	Code of Fair Campaign Practices

## CONCLUSION

The success of an executive committee depends on its officers and members. As you fulfill your responsibilities under election law and party rules, you will face other questions not answered in this guide. Feel free to ask for information when you need it, and let us know what other information will help you.

West Virginia's future depends on the integrity, dedication and fairness of all people. It is our hope that this guide will be of assistance to you. If you require additional information or need answers to specific questions not addressed by this guide, please do not hesitate to contact our office.

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